# House Study Bill 691

Passed Senate, Date _____      Passed House,  Date _____
Vote:  Ayes _____ Nays _____      Vote:  Ayes _____ Nays _____
                    Approved _____

## A BILL FOR

1 An Act relating to voting machines and electronic voting systems.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
3 TLSB 5460XL 80
4 sc/gg/14

PAG LIN

1  1      Section 1.  Section 52.1, subsection 2, paragraph h, Code
1  2 2003, is amended to read as follows:
1  3      h.  "Voting machine" means a mechanical or electronic
1  4 device, meeting the requirements of section 52.7, designated
1  5 for use in casting, registering, recording, and counting votes
1  6 at an election.  "Voting machine" includes, but is not limited
1  7 to, direct recording electronic devices.
1  8      Sec. 2.  NEW SECTION.  52.2A  DUTY OF COMMISSIONER.
1  9      The commissioner shall ensure that any computer employed to
1 10 define ballots, cast and count votes, report or display
1 11 election results, and maintain and produce any audit trail
1 12 information relating to a voting machine or electronic voting
1 13 system shall not receive or transmit any data from another
1 14 computer unrelated to the function of the voting machine or
1 15 electronic voting system and that such computer shall not be
1 16 connected to a computer network or server unrelated to the
1 17 function of the voting machine or electronic voting system, or
1 18 to the internet.
1 19      This section applies to voting machines or electronic
1 20 voting systems in use on or after January 1, 2006.
1 21      Sec. 3.  Section 52.5, unnumbered paragraphs 2 and 3, Code
1 22 2003, are amended to read as follows:
1 23      The state commissioner shall formulate, with the advice and
1 24 assistance of the examiners, and adopt rules governing the
1 25 testing and examination of any voting machine or electronic
1 26 voting system by the board of examiners.  The rules shall
1 27 prescribe the method to be used in determining whether the
1 28 machine or system is suitable for use within the state and
1 29 performance standards for voting equipment in use within the
1 30 state.  The rules shall provide that all electronic voting
1 31 systems and voting machines approved for use by the examiners
1 32 after April 9, 2003, shall meet voting systems performance and
1 33 test standards, as adopted by the federal election commission
1 34 on April 30, 2002, and as deemed adopted by Pub. L. No. 107=
1 35 252, section 222.  The rules shall include standards for
2  1 determining when a requirement that recertification is
2  2 necessary following modifications to the equipment or to the
2  3 programs used in tabulating votes, and a procedure for
2  4 rescinding certification if a system or machine is found not
2  5 to comply with performance standards adopted by the state
2  6 commissioner.
2  7      The state commissioner may employ a competent person or
2  8 persons to assist the examiners in their evaluation of the
2  9 equipment and to advise the examiners as to the sufficiency of
2 10 the equipment.  Consultant fees Fees charged for the
2 11 employment of a person or persons to assist and advise the
2 12 examiners shall be paid by the person who requested the
2 13 certification.  Following the examination and testing of the
2 14 voting machine or system the examiners shall report to the
2 15 state commissioner describing the testing and examination of
2 16 the machine or system and upon the capacity of the machine or
2 17 system to register the will of voters, its accuracy and
2 18 efficiency, and with respect to its mechanical perfections and
2 19 imperfections.  Their report shall be filed in the office of
2 20 the state commissioner and shall state whether in their
2 21 opinion the kind of machine or system so examined can be
2 22 safely used by voters at elections under the conditions
2 23 prescribed in this chapter.  If the report states that the
2 24 machine or system can be so used, it shall be deemed approved
2 25 by the examiners, and machines or systems of its kind may be

2 26 adopted for use at elections as provided in this section.  Any
2 27 form of voting machine or system not so approved cannot be
2 28 used at any election.  Before actual use by a county of a
2 29 particular electronic voting system which has been approved
2 30 for use in this state, the state commissioner shall formulate,
2 31 with the advice and assistance of the examiners, and adopt
2 32 rules governing the development of vote counting programs and
2 33 all procedures used in actual counting of votes by means of
2 34 that system.
2 35     Sec. 4.  Section 52.7, Code 2003, is amended to read as
3  1 follows:
3  2     52.7  CONSTRUCTION OF MACHINE APPROVED.
3  3     A voting machine approved by the state board of examiners
3  4 for voting machines and electronic voting systems must be so
3  5 constructed as to provide facilities for voting for the
3  6 candidates of at least seven different parties or
3  7 organizations, must permit a voter to vote for any person for
3  8 any office although not nominated as a candidate by any party
3  9 or organization, and must permit voting in absolute secrecy.
3 10     It must also be so constructed as to prevent voting for
3 11 more than one person for the same office, except where the
3 12 voter is lawfully entitled to vote for more than one person
3 13 for that office; and it must afford the voter an opportunity
3 14 to vote for any or all persons for that office as the voter is
3 15 by law entitled to vote for and no more, at the same time
3 16 preventing the voter from voting for the same person twice.
3 17 The voting machine must be so constructed as to provide the
3 18 voter with an opportunity to change a vote before the ballot
3 19 is recorded and counted.
3 20     It may also be provided with one ballot in each party
3 21 column or row containing only the words "presidential
3 22 electors", preceded by the party name, and a vote for such
3 23 ballot shall operate as a vote for all the candidates of such
3 24 party for presidential electors.
3 25     Such machine shall be so constructed as to accurately
3 26 account for every vote cast upon it.  The machine shall be so
3 27 constructed as to remove information from the ballot
3 28 identifying the voter before the ballot is recorded and
3 29 counted.  If the machine is a direct electronic recording
3 30 device, the machine shall be so constructed as to store each
3 31 ballot cast separate from the ballot tabulation function,
3 32 which ballot may be reproduced on paper in the case of a
3 33 recount or machine malfunction.
3 34     Sec. 5.  NEW SECTION.  52.42  PROGRAMMING SERVICES.
3 35     Programming services used to define the contents of ballots
4  1 for a specific election for voting machines or electronic
4  2 voting systems shall be performed either by the county where
4  3 the ballot will be used or by the state commissioner of
4  4 elections.
4  5     Sec. 6.  IMPLEMENTATION OF ACT.  Section 25B.2, subsection
4  6 3, shall not apply to this Act.
4  7                       EXPLANATION
4  8     This bill makes changes to the law relating to voting
4  9 machines and electronic voting systems.
4 10     The bill specifies that the definition of "voting machine"
4 11 includes direct recording electronic devices.
4 12     The bill requires a county commissioner to ensure that any
4 13 computer used in conjunction with a voting machine or
4 14 electronic voting system shall not receive or transmit data
4 15 unrelated to the function of the voting machine or electronic
4 16 voting system and that the computer shall not be connected to
4 17 a computer network or server unrelated to the function of the
4 18 voting machine or electronic voting system, or to the
4 19 internet.  This requirement applies to voting machines or
4 20 electronic voting systems in use on or after January 1, 2006.
4 21     The bill requires the state commissioner of elections to
4 22 provide by rule that voting machines and electronic voting
4 23 systems approved for use after April 9, 2003, shall meet the
4 24 voting systems performance and test standards adopted by the
4 25 federal election commission and deemed adopted by the federal
4 26 Help America Vote Act.  This codifies current practice and
4 27 administrative rule of the state commissioner.  The federal
4 28 voting systems performance and test standards require that a
4 29 security audit be performed on voting machines and electronic
4 30 voting systems.
4 31     The bill requires that recertification of a voting machine
4 32 or electronic voting system is required following any
4 33 modifications to the equipment or to the programs used in
4 34 tabulating votes.  Currently, the state commissioner is
4 35 allowed to set standards, by rule, for determining when
5  1 recertification is required in the case of such modifications.

```
5  2      The bill adds specificity to current statutory language
5  3 relating to payment of fees for persons employed to assist and
5  4 advise the state board of examiners for voting machines and
5  5 electronic voting systems in their evaluation of a voting
5  6 machine or electronic voting system.
5  7      The bill requires that a voting machine be so constructed
5  8 as to provide the voter with an opportunity to change a vote
5  9 before the ballot is recorded and counted.  The bill further
5 10 provides that voting machines be so constructed as to remove
5 11 information identifying the voter from the ballot before the
5 12 ballot is recorded and counted.  If the machine is a direct
5 13 recording electronic device, it must have the capability of
5 14 separately storing each ballot which may be reproduced on
5 15 paper in the case of a recount or machine malfunction.
5 16      The bill provides that programming services used to define
5 17 the contents of ballots for a specific election shall be
5 18 performed either by the county where the ballot will be used
5 19 or by the state commissioner of elections.
5 20      The bill may include a state mandate as defined in Code
5 21 section 25B.3.  The bill makes inapplicable Code section
5 22 25B.2, subsection 3, which would relieve a political
5 23 subdivision from complying with a state mandate if funding for
5 24 the cost of the state mandate is not provided or specified.
5 25 Therefore, political subdivisions are required to comply with
5 26 any state mandate included in the bill.
5 27 LSB 5460XL 80
5 28 sc/gg/14.1
```